

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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KEITH WATERMAN,

Plaintiff,

v.

**DECISION AND ORDER**  
18-CV-706-A

NORTH COLLINS EMERGENCY SQUAD, INC.,  
and JANICE CATALANO,

Defendants.

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This *pro se* employment discrimination action, alleging violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 *et seq.* (“Title VII”), New York State Human Rights Law, New York Exec. Law §§ 290 *et seq.* (“NYSHRL”), Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12112 *et seq.* (“ADA”), and the Health Insurance Portability and Accountability Act, 42 U.S.C. §§ 1320d *et seq.* (“HIPPA”),<sup>1</sup> was referred to Magistrate Judge Leslie G. Foschio pursuant to 28 U.S.C. § 636(b)(1) for the performance of pretrial proceedings.

On August 2, 2022, Magistrate Judge Foschio issued a Report and Recommendation (“R&R”) (Dkt. No. 16) recommending that the Court grant Defendants’ motion to dismiss (Dkt. No. 10) the Complaint for failure to state a claim, pursuant to Federal Rule of Civil Procedure 12(b)(6), with prejudice and without leave to replead.

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<sup>1</sup> Plaintiff’s unlawful termination claims under Title VII and the ADA against defendant Janice Catalano were dismissed by Order filed June 29, 2018 (Dkt. No. 4), so those claims proceeded only against defendant North Collins Emergency Squad, Inc.

Federal Rule of Civil Procedure 72(b)(3) provides, “[t]he district judge must determine de novo any part of the magistrate judge’s disposition *that has been properly objected to*” (emphasis added). Here, no objections to the R&R have been filed. “When no timely objection is filed, the [C]ourt need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” 1983 Advisory Committee Note to Fed. R. Civ. P. 72(b); *see Patton v. Ford Motor Co.*, 14-CV-0308-RJA-HBS, 2017 WL 2177621, 2017 U.S. Dist. LEXIS 76148, \*5 (W.D.N.Y. May 18, 2017) (same).

The Court finds no clear error with respect to Magistrate Judge Foschio’s recommendations. As such, it is hereby

**ORDERED**, that pursuant to 28 U.S.C. § 636(b)(1) and for the reasons set forth in the R&R, Defendants’ motion to dismiss (Dkt. No. 10) is GRANTED, and Plaintiff’s Complaint (Dkt. No. 1) is dismissed with prejudice and without leave to replead.

The Clerk of Court shall enter Judgment in favor of Defendants and shall take all steps necessary to close the case.

**IT IS SO ORDERED.**

*s/Richard J. Arcara*  
HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: August 26, 2022

Buffalo, New York